

## ORDINANCE NO. 2007-02

**AN ORDINANCE**, amending prior Ordinances 2003-23 and 2004-27 relating to establishing customer classifications, fees and other charges necessary for the operation, maintenance and replacement of the City's publicly owned wastewater treatment works; placing restrictions on materials which may be discharged to the City's publicly owned wastewater treatment works; establishing requirements for industrial/commercial wastewater dischargers; and providing penalties for violations.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WENATCHEE DO ORDAIN** as follows:

### **SECTION I - Definitions**

Section 4.08.010 of the Wenatchee City Code shall be amended to read as follows:

#### **4.08.010 Definitions.**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "AKART" shall mean an acronym for "all known, available, and reasonable methods (prevention, control, and treatment) to prevent and control pollution of the waters of the state of Washington." (Chapter 90.48 RCW.) AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. AKART may be required by the director for any discharge to the POTW.

(2) "Applicable pretreatment standards" shall mean for any specified pollutant: the more stringent of city prohibitive standards, city specific pretreatment standards (local limits), state of Washington pretreatment standards, or applicable national categorical pretreatment standards.

(3) "Application for temporary discharge" shall mean the city of Wenatchee application form which must be completed by any person requesting to discharge wastewater from a temporary process or clean up project that is not directly tied to the collection system.

(4) "Biochemical oxygen demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, expressed in milligrams per liter (mg/l).

(5) "Biosolids" shall mean municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process and meets all requirements of Chapter 70.95J RCW.

(6) "Building" shall mean any structure used for human habitation or a place of business, recreation, or other purpose requiring wastewater disposal services.

(7) "Building drain" shall mean that part of the lowest piping of a drainage system which receives the discharge from piping inside the walls of a structure or building to a point two feet outside the outer face of a structure, wall, or foundation and conveys it to the sewer or an on-site sewage disposal system. The property owner is responsible for the maintenance of this sewer.

(8) "Categorical pretreatment standards or categorical standards" shall mean any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Federal Water Pollution Control Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471.

(9) "City" shall mean the city of Wenatchee, Washington, a municipal corporation of the state of Washington, acting by and through its city council, unless such authority shall be lawfully delegated to other persons.

(10) "Collection system" shall mean the system of sewers, manholes, pump stations, and appurtenances receiving liquid wastes from buildings and premises for transmission to the wastewater treatment plant.

(11) "Color" shall be defined by the percent transmittance, which is affected by the presence of dissolved substances and suspended matter including but not limited to natural metallic ions, humus and peat materials, planktons, weeds and industrial wastes. Distilled water would have 100 percent transmittance.

(12) "Commercial/industrial customer" shall mean any person discharging water-carried waste and wastewater including but not limited to wastewater from any producing, manufacturing, processing, institutional, commercial, nonprofit, or agricultural operation.

(13) "Contributing jurisdiction" shall be defined as a municipality or sanitary district located outside the city limits and contributing wastewater to the POTW.

(14) "Cooling water" shall mean water used for cooling purposes generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration. For purposes of this chapter, such waters are further divided into two subcategories: (a) uncontaminated – water to which the only pollutant added is heat, which has no direct contact with any raw material, waste, intermediate or final product, and which does not contain levels of contaminants detectably higher than that of the intake water; (b) contaminated – water likely to contain pollutants detectably higher than intake water. This includes water contaminated through any means, including chemicals added for water treatment, corrosion inhibition, or biocides, or by direct contact with any process materials, products, and/or wastewater.

(15) "Customer" shall mean the person in whose name service is rendered as evidenced by the person's signature on the application or contract for that service, or in the absence of a signed instrument, by the receipt and payment of bills regularly issued in the person's name regardless of the identity of the actual user of the service.

(16) "Customer service lateral" shall mean the lateral from the building clean out to the city mainline, which shall be owned and maintained by the customer.

(17) "Department (Ecology)" shall mean the Washington State Department of Ecology or authorized representatives thereof.

(18) "Director" shall mean the city of Wenatchee director of water resources who is charged with certain duties and responsibilities by this chapter, or any other person the director may appoint.

(19) "Domestic wastewater" shall mean the water carrying human waste and the water from activities such as dishwashing, bathing and laundry in residential buildings.

(20) "EPA" shall mean the U.S. Environmental Protection Agency, or other duly authorized official of said agency.

(21) "Equivalent residential unit (ERU)" shall mean the unit of measure of daily water consumption for establishing the system investment fee to be paid to the city. One ERU is defined by the size of water meter required to meet the daily water consumption of a single-family residence. Nonresidential and multifamily residences are assigned one or more ERUs based on the size of the water meter needed to meet daily water consumption requirements.

(22) "Fats, oils and greases (FOG)" shall mean organic compounds which are generally insoluble in water, although they can be emulsified; FOG may be subdivided into polar (typically of animal or vegetable origin) and nonpolar (typically derived from petroleum) subcategories.

(23) "Floatable oil" shall mean fat or grease in a physical condition such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

(24) "Hauled wastes" shall mean wastes conveyed to the city by other than a direct connection to the sewer; also called "trucked wastes."

(25) "Industrial user survey" shall mean a survey form developed by the POTW to be completed by any industrial user at the request of the director. The survey information includes, but is not limited to, types and amounts of wastewater generated, treatment and disposal methods, and chemical storage.

(26) "Inflow" shall mean water not requiring treatment, which enters the sanitary sewer system as a result of precipitation events.

(27) "Interference" shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, either: (a) inhibits or disrupts the POTW, its treatment processes or operations; (b) inhibits or disrupts its sludge or biosolids processes, use or disposal; or (c) is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation or any increase in the cost of treatment of sewage or in the cost of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Federal Water Pollution Control Act (33 U.S.C. 1345 et seq.); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act (42 U.S.C. 7401 et seq.); the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 et seq.); and the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 et seq.).

(28) "May" is permissive.

(29) "Medical wastes" shall mean isolation wastes, infectious agents, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis waste.

(30) "Metered service" is a service for which charges are computed on the basis of measured quantities of water or wastewater.

(31) "Mg/l" means milligrams per liter.

(32) "Noncontact cooling water" shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(33) "NPDES" shall mean the National Pollutant Discharge Elimination System permit program as administered by the U.S. EPA or State of Washington Department of Ecology.

(34) "Operation and maintenance" shall mean those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to achieve the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(35) "Pass through" shall mean a discharge or pollutant which enters and subsequently exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

(36) "Percent transmittance" shall be defined as the percentage of UV light at a wavelength of 254 nm not absorbed after passing through a one-centimeter water sample using a spectrophotometer.

(37) "Person" shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

(38) "pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration.

(39) "Pollutant" shall mean any substance discharged to a POTW which, if discharged directly, would alter the chemical, physical, thermal, biological, or radiological integrity of the waters of the state, or would be likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to any legitimate beneficial use, or to any animal life, either terrestrial or aquatic. Pollutants include the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sludges, screenings, residues from pretreatment of wastes, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural wastes, including stems, pits, leaves or fruit, and the characteristics of the wastewater (i.e., pH, temperature, suspended solids, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, and odor).

(40) "POTW" or "publicly owned treatment works" shall mean a treatment works, as defined by Section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292), which is owned by the city. In this chapter, POTW refers to the city of Wenatchee as the entity owning and having responsibility for the operation and maintenance of the treatment works, and includes any devices or systems owned by the city and used in the collection, storage, treatment, recycling and reclamation of sewage, industrial wastes and sewage sludge and any sewers, pipes, and other conveyances owned by the city of Wenatchee which collect and convey wastewater to the city of Wenatchee wastewater treatment plant.

(41) "Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless specifically allowed by an applicable pretreatment standard.

(42) "Pretreatment requirement" shall mean any substantive or procedural local, state, or federal requirement related to pretreatment developed under Chapter 90.48 RCW and/or Sections 307 and 402 of the Federal Water Pollution Control Act.

(43) "Pretreatment standard" shall mean any pollutant discharge limitations including categorical standards, state standards, and limits of WCC 4.08.080 applicable to the discharge of non-domestic wastes to the

POTW. The term shall also include the prohibited discharge standards of this chapter (WCC 4.08.080), WAC 173-216-060, and 40 CFR Part 403.5.

(44) "Public sewer" shall mean a sewer lying within a public highway, road, street, avenue, alley way, public place, public easement, or right-of-way and which is controlled by or under the jurisdiction of the city. This does not include the side sewer in a public right-of-way.

(45) "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(46) "Residential customer" shall mean any contributor to the POTW whose lot, parcel, real estate, or building is used primarily for domestic dwelling purposes including houses, apartment complexes and recreational vehicle and mobile home parks.

(47) "Sanitary sewer" shall mean a drain or sewer that carries liquid- and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(48) "Sewage" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present (the preferred term is "wastewater").

(49) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(50) "Sewer" shall mean any pipe, conduit, ditch, or other device used to collect and transport sewage.

(51) "Shall" defines a mandatory requirement.

(52) "Side sewer" or "sewer lateral" shall mean the sewer, not directly controlled or maintained by a public authority, which begins two feet outside the outer face of a structure, wall, or foundation conveying wastewater from the building drain to a public sewer or private sewer.

(53) "Significant industrial user" (SIU) shall mean any user of the POTW who: (a) is subject to a categorical pretreatment standard; or (b) discharges an average of 25,000 gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler

blowdown wastewater); or (c) contributes a process waste-stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (d) is designated as such by the director on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. Upon finding that a user meeting the criteria of subparagraph (b), (c), or (d) of this subsection has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on his or her own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

(54) "Slugload" or "slug" shall mean any discharge at a flow, rate, or concentration which could cause a violation of the prohibited discharge standards (WCC 4.08.080), or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

(55) "State" shall mean the state of Washington.

(56) "Storm sewer" (sometimes termed "storm drain") shall mean a drain or sewer which carries storm and surface waters and drainage, but from which domestic wastewater, industrial wastewater and process wastewater are intentionally excluded.

(57) "Storm water" shall mean any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

(58) "Suspended solids" shall mean total suspended matter that either floats on the surface of or is in suspension in water, sewage, or other liquids, and which is removable by laboratory filtering.

(59) "Toxic pollutants" shall mean those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under Section 307 (33 U.S.C. 1317) of the Federal Water Pollution Control Act.

(60) "User" shall mean any person discharging wastewater to the POTW.

(61) "WAC" shall mean the Washington Administrative Code.

(62) "Wastewater" shall mean the liquid- or water-carried industrial wastewater or domestic wastewater or any modification thereof, or any



other water-carried waste, including that which may be combined with any groundwater, surface water, or storm water, that is or may be discharged to the POTW.

(63) "Wastewater discharge permit" shall mean a state waste discharge permit or a general permit issued by the Washington State Department of Ecology in accordance with Chapter 173-216 WAC.

(64) "Wastewater treatment plant" shall mean that portion of the POTW designated to provide treatment of wastewater.

(65) "Water meter" shall mean a water volume measuring and recording device, owned and approved by the city.

## **SECTION II – Use of Public Sewers Required**

Section 4.08.020 of the Wenatchee City Code shall be amended to read as follows:

### **4.08.020 Use of public sewers required.**

(1) The owner or occupant of any house, building, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city sewer service boundaries and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer of the city, is hereby required at his or her expense to install suitable facilities to collect all wastewater generated therein, and to connect such facilities directly with the public sewer in accordance with the provisions of this chapter; provided, that said public sewer is located within 200 feet of the property line and the property is not already served by an existing, functional private wastewater disposal system. When a property is served by an existing private wastewater disposal system, connection to the public sanitary sewer system will be required to ensure protection of the environment and/or public health and safety when any of the following occurs:

(a) The private wastewater disposal system is found to be in failing condition as determined by the Chelan-Douglas health district;

(b) Ownership of the property is transferred and the lot is less than 15,000 square feet; or

(c) The private wastewater disposal system is found to be inadequate for the proposed or existing use of the property as determined by the Chelan-Douglas health district.

(2) All new divisions of land and construction of residential, commercial and industrial facilities shall be reviewed by the city engineer to determine if public sewer shall be extended to the site. It shall be the policy of the city to have public sewer extended to all new development unless special circumstances exist. All new subdivisions and construction of residential, commercial and industrial facilities and short plats approved with interim on-site sewage disposal facilities shall be required to install sanitary sewage collection systems and provide a connection from each lot. Sanitary sewage collection systems shall be installed to service all lots interior to the subdivision.

(3) If any such connection shall not be made within 60 days after written notice to the occupant or owner of such lot or parcel of property, building or structure by the director, the city is hereby authorized and directed to cause such connection to be made and to file a statement of the cost thereof with the city clerk, and thereupon a warrant in the amount of such cost payable to the city shall be issued by the city treasurer under the direction of the city council. The amount of such warrant, plus interest at the rate of twelve percent per annum upon the total amount of such cost and penalty shall be assessed against the property upon which the said building or structure is situated, and shall become a lien thereon as herein provided. Such total amount, when collected, shall be paid into said water/sewer utility fund.

### **SECTION III – Building Sewers and Connections**

Section 4.08.030 of the Wenatchee City Code shall be amended to read as follows:

#### **4.08.030 Building sewers and connections.**

(1) The connection of the building sewer into the public sewer shall conform to the requirements of the most recent editions of the International Building Code, Uniform Plumbing Code and Washington State Standard Specifications for Road, Bridge and Municipal Construction.

(2) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city.

(3) All costs and expenses incidental to the installation and connection of the building drain shall be borne by the owner. The owner or applicant of the premises in question shall indemnify the city against any loss or

damage that may directly or indirectly be occasioned by the installation of the building drain.

(4) A single sewer lateral shall be installed to serve each building lot. Multiple connections to a single sewer lateral shall not be allowed except at the discretion of the city engineer when all of the following conditions apply:

(a) The site topography prohibits the installation of a lateral for each building lot.

(b) The capacity of the sewer lateral is sufficient for multiple connections.

(c) The topography of the site is such that damage is not caused to any of the interconnected customers should the sewer lateral become plugged.

(5) Old building sewers may be used in connection with new buildings only when they are found on examination by the director at the owner's expense to be in good repair, to be suitable for this purpose, and to meet all requirements of this chapter. A change in use of a building may require the installation of oil/water separators, grit removal or other pretreatment or monitoring facilities prior to commencing a wastewater discharge, as specified in WCC 4.08.100.

(6) The city assumes no responsibility for the maintenance of any customer service lateral, or any building sewer lines on private property or in easements or street rights-of-way.

(7) If the customer's service fails, the customer shall endeavor to determine if the cause and location of the service line failure is on the property. If a city employee is sent to a customer's premises, and it is determined that the problem is caused by failure of the customer's system or line, a charge may be made by the city to the customer. Refer to the sewer rate ordinance (WCC 4.08.035 through 4.08.038) for applicable service charges.

(8) Any building or portion of a building with sewer piping located below the elevation of the next upstream manhole cover of the public sewer serving such drainage piping shall be protected with a check valve or backflow prevention device on the building drain or service lateral. The customer shall be responsible for the maintenance of this check valve. The city shall not be responsible for any backflow resulting from failure of this system.

(9) No person shall connect roof downspouts, foundation drains, areaway drains, irrigation, or other sources of surface runoff or groundwater to a side sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer, or maintain such a connection. The property owner shall be required to correct the aforementioned connection by a method approved by the Director at the owner's expense.

#### **SECTION IV – Sewer Service Rates**

Section 4.08.035 of the Wenatchee City Code shall be amended to read as follows:

##### 4.08.035 Sewer service rates.

Service rates, as established by the ordinance codified in this section, shall be billed monthly or bimonthly in advance as shall be determined administratively by the city. The sewer service rates shall be a monthly fixed amount for single-family residential and multifamily residential classifications. All other classifications, excluding special permit dischargers, shall be billed a fixed minimum monthly charge plus a charge per 100 cubic feet of water use in excess of the first 1,000 cubic feet of water use in the billing period. The sewer service rates established for each customer classification effective as of October 1, 2003 are as follows:

<b>Customer Class</b>	<b>Monthly Fixed Minimum Charge</b>	<b>Monthly Fixed Charge Per Unit</b>	<b>Charge Per 100 Cubic Feet Over 1,000 Cubic Feet</b>
<b>Single-family residential</b>			
Inside city limits	\$16.57	N/A	N/A
Outside city limits	\$24.86	N/A	N/A
<b>Multifamily residential/mobile homes</b>			
Inside city limits	N/A	\$14.36	N/A
Outside city limits	N/A	\$21.54	N/A
<b>Motels/hotels</b>			
Inside city limits	\$19.94	N/A	\$1.880
Outside city limits	\$29.91	N/A	\$2.820
<b>Commercial/industrial (domestic)</b>			
Inside city limits	\$19.94	N/A	\$1.880

Outside city limits	\$29.91	N/A	\$2.820
Volume only	N/A	N/A	\$1.880
Commercial/industrial (medium)			
Inside city limits	\$25.57	N/A	\$2.450
Outside city limits	\$38.36	N/A	\$3.675
Volume only	N/A	N/A	\$2.450
Commercial/industrial (high)			
Inside city limits	\$38.51	N/A	\$3.750
Outside city limits	\$57.77	N/A	\$5.625
Volume only	N/A	N/A	\$3.750
PUD			
Flow (p/ccf)	N/A	N/A	\$0.380
BOD (p/klb)	N/A	N/A	\$182.620
TSS (p/klb)	N/A	N/A	\$95.470

The low income senior citizen residential rate shall be 50% of the residential rates established in this chapter. Provided, that to qualify for the low income senior citizen rate, the principal resident shall submit an affidavit on a form to be provided by the City establishing qualifications by age and income. The Director of Finance is authorized and directed to forthwith prepare and promulgate rules and regulations for the implementation of senior citizen rates considering this chapter and applicable state law.

## **SECTION V – Connection Fees**

Section 4.08.036 of the Wenatchee City Code shall be amended to read as follows:

### **4.08.036 Connection fees.**

(1) Property owners seeking to connect to the sewer system of the city shall pay an inspection fee of \$40.00 per connection and, in addition, pay a connection (frontage) charge to pay their equitable share of the cost of such system as enumerated in RCW 35.92.025 benefiting their property. The equitable share shall include interest charges applied from the date of

construction of the sewer system until the connection, or for a period not to exceed 10 years, at a rate commensurate with the rate of interest applicable to the city at the time of construction or major rehabilitation of the sewer system, or at the time of installation of the sewer line to which the property owner is seeking to connect, not to exceed 10 percent per year. The aggregate amount of interest shall not exceed the equitable share of the cost of the system allocated to such property owners.

(2) Upon completion or acceptance by the city of a new sewer line with necessary appurtenances, the director shall compute the equitable share to be paid in the future by property owners connecting to the sewer line. Where feasible, the unit cost for each property owner shall be established on the basis of the distance or frontage of the lot abutting the sewer line benefiting the property. For purposes of this section, the frontage for a corner lot shall be based on the average distance of the two sides. The director, in computing the equitable share to be paid in the future by abutting property owners, will base the calculation on the minimum service size established by the city of Wenatchee to serve the property. The equitable share to be paid in the future by abutting property owners benefiting from the system shall be in addition to other charges provided.

(3) In the case of irregular shaped lots, multiple frontages or unusual circumstances, the director may establish the equitable share on another unit basis rather than the standard frontage calculation. In the event a property owner considers the equitable share established by the director to be unfair, the property owner may appeal the director's decision in writing to the Wenatchee city council. The city council will make a decision within 30 days upon receipt of such written appeal and its decision shall be final.

(4) Frontage fee refunds may be issued for a new connection when both of the following two conditions are satisfied:

(a) The property owner paid frontage fees that included the installation cost of the existing sewer lateral; and

(b) The existing sewer lateral was damaged, does not exist as shown in the city records, or is not within 10 feet of the location shown in the city records.

Refunds will not be issued in the case where laterals have been damaged by franchise utilities. Property owners not paying frontage fees on new connections are solely responsible for existing and new laterals regardless of condition and location shown in the city records.

(5) A credit against the system investment fee shall be allowed in an amount equal to the amount of sewage disposal payments actually made or 36 monthly payments, whichever amount is less, at the time property is connected to the sewage disposal system for those properties previously charged the sanitary sewer service fee because the property was located within 200 feet of the sewage disposal system, even though the property was not connected to the system.

(6) If a sewer service remains disconnected resulting from disconnection of domestic water for four years or more, the property owner will be required to pay the sewer system investment fees at the time their water service is reconnected unless the property owner can provide proof that the applicable system investment fees were previously paid. If a change of use occurs on the property, the property owner may be required to pay additional system investment fees depending on the change in classification. Refer to sewer rate ordinance (WCC 4.08.035 through 4.08.038) for the applicable system investment fees.

## **SECTION VI – System Investment Fee**

Section 4.08.037 of the Wenatchee City Code shall be amended to

read as follows:

### **4.08.037 System investment fee.**

Each new connection to the city's sewer system shall pay to the city a "system investment fee." The system investment fee will represent a recovery by the city of its net investment in the sewer utility to be used by the customer connecting to the sewer system. The system investment fee shall be a flat charge per dwelling unit for single-family residential and multifamily residential customer classifications. Residential classification of hotels, motels, and mobile homes and domestic, medium, and high strength commercial and industrial classification shall be a charge for equivalent residential unit based on the water meter size serving these classifications. Where a commercial or residential customer includes more than one activity, the system investment fee shall be based on that fee applicable to the activity with the highest wastewater strength classification. The system investment fee shall be payable when making application for connection to the city's sewer system for residential or commercial establishment. The system investment fee for each customer classification is as follows:

<b>Customer Classification</b>	<b>Charge for First Dwelling Unit or Equivalent Residential Unit</b>	<b>Charge for Additional Dwelling Unit or Equivalent Residential Unit</b>
Single-family residential	\$570.00	N/A
Multifamily residential	\$509.00	\$469.00
Motels/hotels/ mobile homes	\$570.00	N/A
Commercial/industrial (domestic)	\$570.00	\$530.00
Commercial/industrial (medium)	\$710.00	\$670.00
Commercial/industrial (high)	\$1,032	\$992.00
The determination of equivalent residential units for motels, hotels, mobile homes, and commercial/industrial shall be in accordance with the following table based on the water meter size serving the sewer customers.		

<b>Water Meter Size</b>	<b>ERU</b>
5/8" x 1"	1
1"	2.5
1-1/2"	5
2"	8
3"	16
4"	25
6"	50
8"	80

## **SECTION VII – Annual CPI Adjustment**

Section 4.08.038 of the Wenatchee City Code shall remain unchanged to read as follows:

### **4.08.038 Annual CPI adjustment.**

In addition to such other charges as may be approved by the city council, commencing January 1, 2005, and on January 1st of each successive year thereafter, the rates addressed herein shall be automatically increased based upon 80 percent of the Consumer Price Index, Pacific Cities and U.S. City Average, All Items Indexes, for the period July to July, All Urban Consumers, West B/C as published by the Bureau of Labor Statistics. In no event shall the rates be increased by an amount greater than five percent without prior approval by the city council. However, these fees and charges shall not, in any case, decrease. (Ord. 2003-23 § 4)



## **SECTION VIII – Customer Classification**

Section 4.08.040 of the Wenatchee City Code shall be amended to

read as follows:

### **4.08.040 Customer classification.**

Each customer connected to the city's sewer system shall be classified based on the type of business or residential activity to be conducted or being conducted on the premises and/or the specific characteristics of the wastewater being discharged. Wastewater discharges shall be characterized by the strength of the wastewater based on BOD and suspended solids, the concentration of metals, and/or other organic chemicals that may affect the treatability of the discharge. These customer classifications shall include residential, commercial/industrial, and special permit dischargers as defined below. The ranges of BOD and suspended solids given for each classification are from the Washington State Department of Ecology Publication Number 98-37 entitled "Criteria for Sewage Works Design" and may not represent the actual strength discharged by a specific customer.

(1) Residential. Residential customers include single-family residential, multifamily residential, and mobile homes which discharge to the sewer system wastewater of a domestic nature and with an average strength of less than 240 mg/l of BOD and 260 mg/l of suspended solids. The three classifications of residential are further defined as follows:

(a) Single-Family Residential. A single-family residential customer shall be deemed to mean a separate dwelling house occupied by one family with a single connection to the city's sewer system.

(b) Multifamily Residential. This classification shall include a residential building or buildings containing two or more dwelling units each with separate kitchen facilities connected to the city's sewer system by one or more connecting sewers.

(c) Mobile Homes. This classification includes mobile home parks where space is leased or rented for mobile dwelling units which may include separate kitchen facilities. These establishments are distinguished by having multiple units connected to the city's sewer system by one or more connecting lines.

(2) Commercial/Industrial. Commercial/industrial customer classifications are distinguished based on type of business and/or their wastewater characteristics. The three classifications include domestic, medium

strength wastewater, and high strength wastewater. The types of commercial, institutional, and industrial in each of the three categories, and the average strength of the wastewater based on these activities, is identified below:

(a) Commercial/Industrial – Domestic. Customers in this classification will typically have a wastewater strength that is primarily domestic in character and on an average basis does not exceed 240 mg/l of BOD and 260 mg/l of suspended solids. Commercial and industrial activities included in this classification are as follows:

- (i) Professional offices;
- (ii) Retail sales;
- (iii) Auto service and repair;
- (iv) Motels & hotels (rooms only).

(b) Commercial/Industrial – Medium. Customers in this classification will have an average wastewater strength that is greater than that of the commercial/industrial – domestic classification but on a daily average will not exceed 410 mg/l of BOD and 425 mg/l of suspended solids and will not exceed a five-day average of 240 mg/l of BOD and 260 mg/l of suspended solids. Commercial and industrial activities included in this classification are:

- (i) Grocery stores without food grinders;
- (ii) Hospitals and convalescent centers;
- (iii) Manufacturers;
- (iv) Food processors.

(c) Commercial/Industrial – High. Customers in this classification will have an average wastewater strength that is greater than that of the commercial/industrial – medium classification but on the average does not exceed a daily average of 1,150 mg/l BOD and 1,200 mg/l suspended solids and will not exceed a five-day average of 450 mg/l of BOD and 460 mg/l of suspended solids. The types of business included in this classification are restaurants, hotels with dining facilities, bakeries, auto steam cleaning, grocery stores with food grinders, mortuaries, commercial laundries and special industrial manufacturing or processing activities.

(3) Special Permit Dischargers. This classification of customer includes commercial or municipal operators who, through a separate license, permit, or contract are authorized to discharge at a designated point in the city POTW of wastes collected from other sources such as wastewater from clean up projects, or other hauled wastewater. The city shall establish administratively the requirements for licensing each firm, person or municipality wishing to discharge waste to the city POTW. See WCC 4.08.080, 4.08.100 and 4.08.110 for additional requirements.

(4) Dual Classification. Where a customer connected to or connecting to the city's sewer system includes activities and wastewater strengths falling in more than one of the classifications defined above, the customer shall be classified based on the highest strength of wastewater from the activities carried on in the premises. If the water service to each type of activity in the building can be separated and a separate meter installed to each activity, then each activity would be classified as a separate customer under the applicable classification.

(5) Home Occupation. Customers with approved home occupations shall be classified based on the highest strength of wastewater from the activities carried on in the premises. Customers whose home occupation meets the criteria of the commercial/industrial-domestic category shall be billed as a residential customer. All other customers operating home occupations shall be billed as a commercial/industrial customer under the appropriate commercial/industrial category.

## **SECTION IX – Billings**

Section 4.08.050 of the Wenatchee City Code shall be amended to

read as follows:

### **4.08.050 Billings.**

(1) Billings for sewage disposal service shall be combined with the billings for domestic water service, storm drain and/or sanitary garbage collection charges when applicable. All utility billings from the city shall become delinquent as described in WCC 9.02.010.

## **SECTION X – Special Provisions**

Section 4.08.060 of the Wenatchee City Code shall be amended to

read as follows:

#### 4.08.060 Special provisions.

(1) All sanitary sewage disposal service furnished to a customer outside the city limits shall be charged at the rate of 150 percent of the schedule for rates and charges set forth in the sewer rate ordinance (WCC 4.08.035 through 4.08.038); however, the city, with respect to commercial and industrial customers situated outside the city limits, may enter into contracts for furnishing sanitary sewage disposal service on such terms as the city may determine to be equitable in each instance. Such agreements shall be approved by the city council.

(2) Where the use of water is such that a portion of all the water used does not flow into the city sewer but is lost by evaporation, irrigation, sprinkling or any other cause, or is used in manufactured products such as ice, canned goods, beverages and the like, and the person in control provides proof of this fact to the city of Wenatchee, and installs a meter or other measuring device approved by the director to measure the amount of water so used or lost, fees may be adjusted based on measured flow.

(3) In the event a developer is requested by the city to install a sewer system and/or sewer lines larger than required for serving the development, the city will pay the additional cost of the oversized system and/or lines.

(4) Special Agreement. The city reserves the right to enter into special agreements or contracts with customers setting out special terms under which they may discharge to the POTW with the terms of such special agreements to govern in the event of conflict with this chapter; provided, however, in no case will a special agreement waive compliance with a pretreatment standard or requirement.

### **SECTION XI – Water/Sewer Utility Fund**

Section 4.08.070 of the Wenatchee City Code shall remain

unchanged to read as follows:

#### 4.08.070 Water/sewer utility fund.

There is hereby created a special fund of the city to be known as the “water/sewer utility fund.” Any and all revenues received for the use of sewers as set forth herein for sewage disposal service from the sale of by-products from the wastewater treatment plant and/or from any other source of rental, use or services rendered by such utility shall be credited to and paid into such fund. All engineering expenses incurred by the engineering department in planning, designing, supervising and administering any

work on the Wenatchee municipal sewer system, and all expenses of maintenance and operation of the sewer system and wastewater treatment plant including but not limited to all improvements, additions, betterment, extensions, repairs, replacements and revenue bond debt service, shall be paid out of said fund. (Ord. 2004-27 § 7)

## **SECTION XII – Prohibited Discharges**

Section 4.08.080 of the Wenatchee City Code shall be amended to read as follows:

### **4.08.080 Prohibited discharges.**

(1) General Provisions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions and the specific prohibitions in subsection (2) of this section apply to all users of the POTW and customers of the contributing jurisdictions whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants in any form (solid, liquid, or gaseous):

(a) Any pollutant which either alone or by interaction may create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21. At no time shall a wastestream cause two successive readings on a combustible gas meter to be more than five percent nor any single reading over 10 percent of the lower explosive limit (LEL) of the meter at any point in the collection system or treatment plant. Prohibited materials include, but are not limited to, gasoline, fuel oil, diesel, kerosene, naptha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, and any other substances which are a fire hazard or hazard to the POTW;

(b) Any pollutant which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 or more than 11.0;

(c) Any solid or viscous substances including fats, oils and greases in amounts which may cause obstruction of the flow in the POTW or interference;

(d) Any discharge of pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, is sufficient to cause interference with the POTW;

(e) Any wastestream having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which would cause the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius);

(f) Any wastewater having an animal/vegetable (polar) based floatable oil, fat waste, oil, or grease, or a mineral/petroleum (nonpolar) based oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of 100 mg/l, or any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(g) Any pollutants which singly or by interaction with other wastes result in the presence of noxious or malodorous gases or fumes in a quantity that may cause acute worker health and safety problems, or are capable of creating a public nuisance or are sufficient to prevent the entry into sewers for maintenance and repair;

(h) Any trucked or hauled wastes except at discharge points designated by the city pursuant to WCC 4.08.090 or 4.08.060;

(i) Any inflow from sources which do not require treatment or would not be afforded a significant degree of treatment by the POTW including storm water and wastewaters affecting system hydraulic loading, unless specifically authorized by the director;

(j) Any cooling water or boiler water containing chemicals other than chlorine and/or sulfuric acid except as approved by the Director;

(k) Any dangerous wastes or hazardous wastes as defined in Chapter 173-303 WAC, as amended, except as allowed in compliance with that regulation;

(l) Any water added for the purpose of diluting wastes which would otherwise exceed applicable pretreatment standards;

(m) Any sludges, screenings, or other residues from the pretreatment of industrial wastewater discharges;

(n) Any discharge which imparts color which cannot be removed by the POTW's treatment process including but not limited to dye wastes, vegetable tanning solutions, and pear float, which consequently imparts color to the treatment plant's effluent and interferes with the ultraviolet disinfection process;

(o) Any discharge containing radioactive wastes or isotopes except as specifically approved by the director in compliance with the applicable state or federal regulations including WAC 246-221-190, "Disposal by Release into Sanitary Sewerage Systems"; and meeting the concentration limits of WAC 246-221-290, Appendix A, Table I, Column 2; and WAC 246-221-300, Appendix B;

(p) Any substances which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or would interfere with the reclamation process or cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the federal, state, or local statutes or regulations applicable to the sludge management method being used;

(q) Persistent pesticides and/or substances regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);

(r) Any detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the POTW;

(s) Any substance, alone or in conjunction with other sources, which will cause the POTW to violate its NPDES permit.

(3) Local Limits. The following pollutant levels are established to protect against pass through and interference with the operation of the treatment plant. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

Copper	0.68 parts per million (ppm)
Lead	0.5 ppm
Zinc	1.48 ppm
Total Phenols	0.10 ppm

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations of metallic substances are for "total" metals unless indicated otherwise. The department or the city may impose mass limitations in addition to, or in place of, the concentration-based limitations above. The city may also revise or modify the local limits as required, or if deemed necessary to avoid violations to the NPDES permit.

(4) Federal Categorical Pretreatment Standards. All users in the regulated industrial categories shall meet national categorical pretreatment standards as adopted and hereafter amended by the EPA pursuant to the Federal Water Pollution Control Act. These standards, found in 40 CFR Chapter 1, Subchapter N, Parts 405 – 471, are hereby incorporated by reference.

(5) State Requirements. State requirements and limitations on discharges to the POTW as incorporated into Washington State law by Chapter 90.48 RCW and implemented in Chapters 173-201A, 173-216 and 173-240 WAC shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this or other applicable ordinances. This includes the requirement to meet AKART as defined herein whenever applicable and more stringent than local limits, and to comply with the requirements of WCC 4.08.100.

### **SECTION XIII - Regulation of Waste Received from Contributing Jurisdictions**

Section 4.08.090 of the Wenatchee City Code shall be amended to read as follows:

4.08.090 Regulation of waste received from contributing jurisdictions.

(1) If another municipality or sanitary district located outside the city limits desires to contribute wastewater to the POTW, the director may enter into a multi-jurisdictional agreement with the contributing jurisdiction.

(2) Prior to entering into an agreement provided by subsection (1) of this section, the contributing jurisdiction shall provide the following information to the city:

(a) A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction including analytical testing results which may include FOG, BOD, suspended solids, priority pollutants, metals and other analytes;

(b) A list of all customers discharging within the contributing jurisdiction;

(c) A legal description of the area to be served; and

(d) Such other information related to wastewater discharge as the director may deem necessary.



(3) A multi-jurisdictional agreement, as allowed by subsection (1) of this section, shall contain the following conditions:

(a) A requirement for the contributing jurisdiction to adopt or adopt by reference a sewer use ordinance which is at least as stringent as the ordinance codified in this chapter and local limits which are at least as stringent as those adopted by the city's ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;

(b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;

(c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of those activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing jurisdiction and the director;

(d) A requirement for the contributing jurisdiction to provide the director with access to all information related to wastewater discharge that the contributing jurisdiction obtains as part of its pretreatment activities;

(e) Limits on the nature, quality and volume of the contributing jurisdiction's wastewater at the designated monitoring point before it discharges to the POTW;

(f) Requirements for monitoring the contributing jurisdiction's discharge including analytes and testing frequency;

(g) A provision ensuring director access to the facilities of customers located within the contributing jurisdictional boundaries for the purpose of inspection, sampling and collection of any other information related to the wastewater discharge and duties deemed necessary by the director; and

(h) A provision specifying remedies available for breach of the terms of the multi-jurisdictional agreement.

## **SECTION XIV – Pretreatment**

Section 4.08.100 of the Wenatchee City Code shall be amended to

read as follows:

### **4.08.100 Pretreatment.**

(1) Industrial User Surveys. The director shall periodically notify new, existing, and potential users of the requirement to complete an industrial user survey form. Upon notification, users shall fully and accurately complete the survey form, and return the completed form to the director within 30 days of receipt. Each user shall maintain a copy of the latest completed survey form at their place of business. Failure to fully or accurately complete a survey form or to maintain the latest survey form on the premises where a wastewater discharge is occurring shall be a violation of this chapter.

(2) Wastewater Discharge Permit. Any user meeting the definition of a significant industrial user shall file an application for a state waste discharge permit with the Department in accordance with the requirements of WAC 173-216-070. Proof of acceptance of the application and payment of permit fees shall be kept at the user's facilities, and produced upon request by the director. Failure to submit the application or rejection of the application by the Department may be considered sufficient grounds to terminate or refuse to provide sewer service. Any violation of the terms and conditions of the wastewater discharge permit shall be deemed a violation of this chapter and subjects the user to the sanctions set out in this chapter. Obtaining authorization from the Department and the POTW does not relieve a user of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(3) Commercial/industrial customers shall properly install, operate, and maintain the wastewater facilities which, combined with appropriate practices, are necessary to achieve AKART as defined herein. Such pretreatment facilities shall be designed to achieve compliance with all applicable pretreatment standards and requirements within the time limitations specified by the EPA, state or the city, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Department for review and approval in accordance with the procedures of Chapter 173-240 WAC, and shall be disclosed to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying its facility as necessary to produce a discharge acceptable to the city and/or the Department and meet discharge

limitations under the provisions of this chapter. Such facilities shall be provided, operated, and maintained at the user's expense.

(4) Significant industrial users shall comply with approved engineering reports, plans and specifications, and operations and maintenance manuals, and shall modify such documents to reflect any proposed modifications of industrial wastewater (pretreatment) facilities. SIUs shall submit proposals to modify pretreatment facilities to the Department before implementation in accordance with Chapter 173-240 WAC. SIUs shall submit a copy of such revised plans and the Department's acceptance to the director before implementing changes to approved pretreatment facilities. The director may audit the compliance of any SIU, and require changes in operating procedures deemed necessary by the director to ensure continued compliance with applicable pretreatment standards and requirements.

(5) If monitoring of a commercial/industrial customer indicates noncompliance with the requirements of this chapter, the customer will be required to take corrective measures at the customer's expense. Such measures may include: restricting a discharge during peak flow or low flow periods; designating that certain wastewater be discharged only into specific sewers; requiring relocation and/or consolidation of discharge points; installing a sampling site as specified by the city; and/or separating sewage or storm water wastestreams from industrial wastestreams.

(6) Commercial/industrial customers who operate restaurants, cafes, lunch counters, cafeterias, bars or clubs, or hotel, hospital, factory or school kitchens, butcher shops, grocery stores or any other establishment where grease may be introduced into the sewer system shall have a grease trap or grease interceptor to prevent the discharge of fat, oil, and grease waste. Such pretreatment facilities shall be either a grease trap or grease interceptor located outside the building and installed in the wastewater line leading from the sinks, drains or other fixtures where grease may be discharged. New grease traps and interceptors shall be in accordance with the most recent edition of the Uniform Plumbing Code and any other requirements by the city as set forth in this chapter. Grease interceptors that include dishwasher effluent shall be sized to allow sufficient detention time to allow for cooling of the effluent. Sanitary facilities will not be allowed to connect upstream of any grease interceptor. Grease traps inside the building shall only be allowed upon approval by the director under special circumstances which may include but are not limited to insufficient space to install an outside interceptor, cost of retrofitting existing facilities, and single service businesses with limited menus.

(7) Commercial/industrial customers who operate automobile and truck repair facilities, car washes, steam cleaning or pressure washing facilities,

or any other establishment where grit, sand, and petroleum-based grease and oil may be introduced into the sewer system shall have an oil/water separator, settling tanks or grit trap. These oil/water separators, settling tanks and grit traps must be in accordance with the city and Department of Ecology standards.

(8) All grease interceptors, grease traps, oil/water separators, settling tanks, and grit traps shall be properly installed, maintained and operated by the user at the user's expense. The pretreatment facilities shall be kept in continuous operation at all times, and shall be maintained to provide efficient operation. Cleaning must be performed by a service contractor qualified to perform such cleaning, or in a manner approved by the director. All material removed shall be disposed of in accordance with all state and federal regulations. Oil and grease waste and grit removed from such facilities shall not be disposed of in the sanitary or storm sewer. Furthermore, the use of hot water, enzymes, bacteria, chemicals or other agents or devices that cause the contents of a pretreatment device to be discharged into the sanitary sewer system is prohibited. Records of maintenance shall be made readily available on-site to the director for review and inspection, and must be maintained for a minimum of five years. The director will require that all maintenance records be submitted on a routine basis for businesses whose operations are known to generate high levels of oil and grease or who have failed in the past to properly maintain their pretreatment facilities and fail to produce a discharge quality in compliance with the parameters set forth in this chapter.

(9) Commercial/industrial customers with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(10) Report of Changed Conditions. Each commercial/industrial customer must notify the city of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. These significant changes include, but are not limited to, flow changes of 20 percent or greater, changes in the strength of wastewater being discharged, and the discharge of previously unreported pollutants. The director may require the user to submit information as may be deemed necessary to evaluate the changed condition. No user shall implement the planned changed condition(s) until and unless the director has responded to the user's notice.

(11) Slug Discharge Control Plans. If it is determined that the commercial/industrial customer's discharge is occurring in slugloads, the user may be required to install, properly operate, and maintain, at the user's expense, facilities to prevent slugloads or accidental discharges of pollutants to the POTW. Such users will be required to implement spill

plans developed in compliance with applicable OSHA, health, fire, and Department regulations applicable to discharges to POTWs. When such plans are required, they shall contain at least the following elements:

- (a) Description of wastewater discharge practices;
- (b) Description of any and all stored chemicals including material safety data sheets;
- (c) Procedures for immediately notifying the POTW of any accidental or slug discharges, with procedures for follow-up written notification within five days; and
- (d) Procedures to prevent any accidental slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building or containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(12) Accidental Spill Notification. Users shall verbally notify the POTW immediately upon the occurrence of a slugload or accidental discharge of substances regulated by this chapter or discharge permit and take immediate actions to correct the situation. Such notification shall include the following information: (a) the location of the discharge, (b) the date and time thereof, (c) the type of waste, (d) the waste concentration and volume, and (e) the corrective actions taken and planned. The user shall follow up with a written notification to the director containing the same. Any user who discharges an accidental discharge or slugload shall be liable for: (a) recovery of any resultant expenses, losses, and damages to the POTW; (b) recovery of any fines or settlements levied upon the city by any government agency or court of competent jurisdiction attributable to the discharge; and (c) applicable fines and penalties assessed upon the user by the city for noncompliance with this chapter.

(13) Commercial/industrial customers may be required to retrofit facilities which were constructed prior to the adoption of this chapter. The requirement to retrofit shall be on a case-by-case basis as determined by the director for compliance with city, state and federal regulations. The director may require installation of grease interceptors, grease traps or other pretreatment facilities for those facilities that violate discharge prohibitions. In deciding whether to require a user to retrofit their facilities, the director shall take into account all relevant circumstances including but not limited to the extent of potential harm caused by the discharge, the magnitude and duration of the discharge, economic

detriment to the user, corrective actions by the user, and the compliance history of the user. All costs incurred in retrofitting a user's facility shall be the sole responsibility of the user.

(14) Commercial/industrial customers installing and maintaining pretreatment facilities in accordance with this chapter may qualify for incentives. Incentive programs must be approved by city council and will be awarded according to the criteria set forth in the program. Incentive programs may be discontinued without prior notice.

## **SECTION XV – Inspections, Monitoring and Recordkeeping**

Section 4.08.110 of the Wenatchee City Code shall be amended to read as follows:

### **4.08.110 Inspections, monitoring and record keeping.**

(1) Inspection and Sampling. The director shall have the right to enter the facilities of any user to ascertain compliance with this chapter and any wastewater discharge permit. Persons or occupants of premises where wastewater is created or discharged shall allow the director ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The director and/or Department shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspections, compliance monitoring and/or metering operations. Where a user has security measures in place which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the POTW or Department will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(2) Search Warrants. If the director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect as part of a routine inspection program of the POTW designed to verify compliance with this chapter or any wastewater discharge permit, or to protect the overall public health, safety and welfare of the community, then the director shall seek issuance of a search and/or seizure warrant from the superior court of Chelan County.

(3) Wastewater Monitoring. Any user subject to sampling requirements shall collect, analyze samples and report results as specified in the user's

wastewater discharge permit or contract. The director may require sampling, analysis and reporting of results by users who are not required to have a wastewater discharge permit if information or data are needed to establish a sewer charge, determine the treatability of the effluent, determine compliance with this chapter or determine any other factor which is related to the operation and maintenance of the sewer system.

(4) Analyses. All wastewater analyses shall be performed either by a state certified laboratory, by a laboratory of a commercial/industrial customer approved by the director or, at the discretion of the director, by personnel of the POTW. If performed by POTW personnel, the user requesting the analyses shall pay an appropriate charge. Data developed in the laboratory of an user shall be verified by a responsible administrative official of the industrial discharger under penalty of perjury and certify to its being accurate and correct. All wastewater analyses shall be conducted in accordance with U.S. Environmental Protection Agency approved analytical methods (40 CFR Part 136). If no appropriate procedure is contained therein, the standard procedure of the industry or a procedure judged satisfactory by the director shall be used to measure wastewater constituents. Any independent laboratory or discharger performing tests shall furnish any required test data or information on the test methods or equipment used, if requested to do so by the director.

(5) Monitoring Facilities. All wastewater dischargers required by the director or discharge permit by the Department of Ecology to make continuous or periodic measurements shall furnish, install and maintain a monitoring facility or station of a design or configuration approved by the director. The monitoring facility shall be located in an accessible location approved by the director and shall be provided in accordance with the city's requirements and all applicable local construction requirements. Plans for all monitoring facilities, including flow measurement and sampling systems, judged by the director to require engineering design, shall be prepared and signed by an engineer of suitable discipline licensed by the state of Washington.

(6) Record Keeping. Users shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the date analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five years.

(7) Confidential Information. Records kept by the director with respect to the nature and frequency of discharges from any user shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes or methods of production entitled to confidentiality under the law. Users shall clearly mark "confidential" on all areas of correspondence they wish to be held confidential from the public, and feel is afforded such protection. The director shall determine if such information is legally afforded this protection under the law upon receipt of a request for such information. Only information marked "confidential" and determined by the director to legally qualify as such shall be withheld from the public. The city can provide no assurance that such information will not ultimately be determined to be a public record subject to release if ordered by the court, and the city undertakes no obligation to defend the nondisclosure of such information in court. No correspondence claimed as "confidential" shall be withheld from any state or federal agency responsible for oversight of the POTW's NPDES permit or authority to implement the NPDES, or state or federal pretreatment programs. Wastewater constituents and characteristics, and other "effluent data" as defined in 40 CFR 2.302, will not be recognized as confidential information and will be made available to the public without restriction.

## **SECTION XVI – Administrative Enforcement Remedies**

Section 4.08.120 of the Wenatchee City Code shall be amended to read as follows:

### **4.08.120 Administrative enforcement remedies.**

(1) State Responsibility. The Department is charged with permitting and regulating commercial/industrial customer's discharging to the POTW. Except for emergency actions, it shall be the policy of the director to coordinate actions in regard to control of such users with the Department until such time as a local pretreatment program for the city may be authorized by the state. Failure to conduct such coordination, however, shall not invalidate any action of the city authorized by this chapter.

(2) Notice of Violation. Whenever the director finds that any user has violated or is continuing to violate a contract, any provision of this chapter, or an order issued hereunder, the director may serve upon such user written notice of the violation. Within 10 days of receipt of such notice of violation, the user shall submit to the director an explanation of the violation and a plan to satisfactorily correct and prevent the reoccurrence of such violation(s). The plan shall include specific actions



the user will take, and the completion dates of each. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(3) Compliance Orders. Whenever the director finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, the director may issue a compliance order to the user responsible for the violation. This order shall direct that adequate pretreatment facilities, devices, or other related appurtenances be installed and properly operated and maintained. The order shall specify that wastewater services, including collection and treatment, shall be discontinued and/or applicable penalties imposed unless, following a specified time period, the directed actions are taken. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the violation or noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance beyond any applicable state or federal deadlines, nor does a compliance order release the user from liability from any past, present, or continuing violation(s). Issuance of a compliance order shall not be a prerequisite to taking any other action against the user. Failure to comply with any terms or requirements of a compliance order by a user shall be an additional and independent basis for termination of water and wastewater services, including collection and treatment, or any other enforcement action authorized under this chapter and deemed appropriate by the director.

(4) Cease and Desist Orders. The director may issue a cease and desist order upon finding a user has or is violating either: this chapter, a wastewater discharge permit or order issued by the Department, any other pretreatment standard or requirement. The decision to issue a cease and desist order shall consider the likelihood that a user's violations in conjunction with other discharges could cause a threat to the POTW, POTW workers, or the public, or cause pass through, interference, or a violation of the POTW's NPDES permit. The order issued by the director will direct the user to cease and desist all such violations and to: (a) immediately cease such actions or discharges described; (b) comply with all applicable pretreatment standards and requirements; (3) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall

not be a bar against, or prerequisite for, taking any other action against the user.

(5) Recovery of Costs Incurred by the City. Any user violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the city's POTW shall be liable to the city for any expense, loss, fines, or damage caused by such violation or discharge. The city will bill the discharger for the cost incurred by the city for any cleaning, repair, replacement work, or other damages caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of this section and WCC 4.08.130.

(6) Noncompliance Fines. Notwithstanding any other section of this chapter, any user who is found by the director to have violated any provision of this chapter, or orders issued hereunder, shall be fined in the amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge or billed separately. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Issuance of an administrative fine shall not be a prerequisite for taking any other action against the user.

(7) Termination of Treatment Services. The director shall have authority to terminate water and wastewater services, including collection and treatment, through the issuance of a termination order to any user upon determining that such user has: (a) refused access allowed by this chapter thereby preventing the implementation of any purpose of this chapter; (b) violated any provision of this chapter including the discharge prohibitions and standards of WCC 4.08.080; or (c) violated any lawful order of the city issued with respect to this chapter. For users holding permits to discharge to the POTW, violation of the following conditions is also grounds for terminating discharge services: (a) failure to accurately report wastewater constituents or characteristics; (b) failure to report significant changes in operations or wastewater constituents or characteristics; or (c) violation of any term or condition of the user's waste discharge permit.

(8) Administrative Hearing. A user shall be afforded the opportunity to an administrative hearing to contest the director's determination to suspend services, terminate wastewater services, impose penalties, recover costs, or establish compliance schedules. Any hearing pursuant to this section must be requested by the user in writing within 15 days after the user receives notice of the city's determination. The user's written request for hearing shall be filed with the director. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall

preclude any further review. The city will conduct the hearing within 20 days of the receipt of the request (or within five days if the user is contesting suspension or termination of wastewater services). The administrative hearing will be held before the director. Formal rules of evidence will not apply but the user and the city shall have the right to present witnesses and documentary evidence. The city director will issue a written decision within 10 days of the conclusion of the hearing. Except as otherwise provided, all decisions by the director shall be final and conclusive on all parties unless appealed to the city council under subsection (10) of this section. The director's decision, action, or determination shall remain in effect during such period of appeal.

(9) Appeal to the City Council. Any decision of the director rendered pursuant to subsection (8) of this section may be reviewed by appeal to the city council. The user must file written notice of appeal with the city clerk within 15 days following notification of such decision or action. Such notice of appeal shall set forth in reasonable detail the action or decision appealed and the user's grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. Following receipt of such notice, the city clerk will schedule a date for a public meeting by the city council at which time the city council shall consider the appeal. The date of the public meeting should be no later than 20 days following the date the clerk received notice of the appeal. The clerk will mail written notice to all parties of record to apprise them of the meeting date. City council review of the facts shall be limited to evidence presented to the director. The city council may request additional information or memoranda in order to reach a decision; provided, that all parties of record are given an opportunity to respond to the material provided. At the public meeting the city council may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions, and decision of the director.

(10) Judicial Review. The decision of the city council on appeal of the decision of the director shall be final and conclusive unless, within 20 days from the date of final action, the user files a petition for review with the superior court of Chelan County in the manner prescribed by law.

## **SECTION XVII – Judicial Enforcement Remedies**

Section 4.08.130 of the Wenatchee City Code shall remain unchanged to read as follows:

#### 4.08.130 Judicial enforcement remedies.

(1) Injunctive Relief. When the director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, he/she may petition superior court of Chelan County through the city attorney for the issuance of a temporary or permanent injunction, as appropriate. Such injunction shall restrain or compel specific compliance with an applicable wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil Penalties. A user who has violated or continues to violate any provision of this chapter, an order issued hereunder, a wastewater discharge permit, or any other pretreatment standard or requirement not reserved by a permit by the Department shall be liable to the city for a civil penalty of at least \$1,000 per violation but not more than \$10,000 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. In the case of noncompliance with a monthly or other long-term average discharge limits, penalties shall accrue for each day during the period of such noncompliance. In addition to the penalty amounts assessable above, the director may recover reasonable attorneys' fees, court costs, and other expenses associated with compliance and enforcement activities authorized under this chapter. This shall include recovery of costs for sampling and monitoring, and the cost of any actual damages incurred by the city including penalties for noncompliance with the city NPDES permit to the extent attributable to the user. The city shall petition the superior court of Chelan County to impose, assess, and recover such sums. In recommending the amount of civil liability, the director shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires, and shall present this analysis as evidence in support of the recommended penalty. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal Prosecution. A user who willfully violates any provision of this chapter, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation or imprisonment in the county jail not to exceed 90 days, or by both fine and

imprisonment, at the discretion of the district court of Chelan County. The above provision applies to any user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter. Where willful or negligent introduction of a substance into the POTW causes personal injury or property damage, this action shall be in addition to any other civil or criminal action for personal injury or property damage available under the law.

(4) Remedies Nonexclusive. The provisions in WCC 4.08.120 and this section are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions concurrently or sequentially against a noncompliant user or to take other actions as warranted by the circumstances. (Ord. 2004-27 § 13)

#### **SECTION XVIII – Invalid Section**

If any section, subsection, clause or sentence of this Ordinance shall be held unconstitutional or invalid, such holding shall not affect the validity of the remaining provisions of this Ordinance.

#### **SECTION XIX – Amendment of Prior Ordinances**

Ordinances Nos. 2003-23 and 2004-27 be and the same are hereby amended by this Ordinance, otherwise to remain in full force and effect where not inconsistent with this Ordinance.

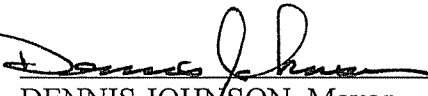
#### **SECTION XX – Effective Date**

This Ordinance shall take effect from and after its passage thirty (30) days after publication as provided by law.


PASSED BY THE CITY COUNCIL OF THE CITY OF

WENATCHEE, at a regular meeting thereof, this 8 day of March,  
2007.

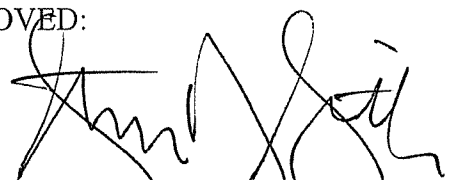
CITY OF WENATCHEE, a Municipal  
Corporation

By:   
DENNIS JOHNSON, Mayor

ATTEST:

By:   
VICKI REISTER, City Clerk

APPROVED:

By:   
STEVE D. SMITH, City Attorney